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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER				
SCHELL, LAURA C				
ART UNIT		PAPER NUMBER		
3767				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,639

Applicant(s)

YACHIA ET AL.

Examiner

LAURA C. SCHELL

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date 7/16/2010
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-6 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Microchips, Inc. (WO 02/30401) in view of Santini, Jr. et al. (US Patent No. 6,669,683) and further in view of Richter (US Patent No. 6,334,859). Microchips discloses the device substantially as claimed including a medical device (Fig. 2) for controlled release of one or more substances (abstract) into a body cavity (page 7, lines 1-5 disclose that the device may be implanted in a patient in a electrically conducting fluid such as urine which would be found in a body cavity) containing an electrolytic fluid (page 6, last line through page 7, line 5 discloses that the device is implanted/inserted into electroconductive/electrolytic fluid of a patient, and one of those bodily fluids is urine) comprising: a power supply having first and second terminals (Fig. 2); a plurality

of blister-like vesicles mounted on a first surface (Fig. 2, 62 and 60 are labeled to identify both the electrodes and the caps, therefore as they are shown to protrude from the surface of the microchip device 52 (which as seen in Fig. 2 discloses that 58 lies on top of the surface of the microchip device and cap 60 lies on top of 58 and together, these form a protrusion which can be considered a "blister-like" vesicle)), and each vesicle having a wall surrounding a lumen, which is configured to be filled with the one or more substances that are to be released into the body cavity (Fig. 2 discloses that 56 and 58 are both mounted on a base layer, and that the reservoir 58 along with cap portion 60 can therefore said to be protruding from the base layer, generally labeled as 52. The reservoir 58 is surrounded by 56, and the portion of 56 that surrounds the reservoir can be considered a wall, and the reservoir the lumen. The fourth paragraph of page 7 discloses that the reservoir/lumen is configured to be filled with substances that are to be released into the body. Therefore since Applicant has not claimed that the vesicles are hemispherical protrusions surrounding a cavity containing a substance to be released into the body, it is the examiner's position that Microchips discloses "blister-like vesicles" as claimed) mounted on a first surface, each vesicle having at least a metallic portion formed from a first metal (page 5, line 24 through page 6, line 30 discloses that each of the blister-like vesicles are electrodes and both can be made from metal); for each vesicle, an individual electrical connection between the metallic portion of the vesicle and the first terminal of the power supply, each connection allowing the metallic portion to function as an anode (page 7, line 29 through page 8, line 1 disclose that 60 is the anode and 62 is the cathode and Fig. 2 discloses that there

are individual electrical connections to each vesicle, also see page 5, line 24 through page 6, line 30 as well as Fig. 2); and a cathode (62) formed from a second metal attached to the second terminal of the power supply (Fig. 2); wherein the cathode is separated from the anode by a space that is accessible by the electrolytic fluid when the device is in the body cavity (Fig. 2 discloses that there is space between 60 and 62 and that both are exposed to the electrolytic body fluid as the fluid is labeled as 30, see page 7, line 22). Microchips, however, does not disclose that each vesicle is electrically coupled to a switch or that the blister-like vesicles have a convex surface protruding above a first surface. Santini, however, discloses a similar device (Fig. 5) with multiple reservoirs/lumens (Fig. 5, the second row of reservoirs labeled as 180) and each reservoir/vesicle lumen is individually connected electronically (the second row in Fig. 5 discloses that each reservoir is connected electronically independently of the other reservoirs) and further discloses that each reservoir has it's own resistor (140b) which Santini discloses acts as a switch to selectively control which reservoirs release their contained substances into the patient (col. 20, lines 56-59). Santini, further discloses reservoir caps with a convex surface protruding above a first surface (see Fig. 6c and the marked up version of Fig. 6c at the end of the office action, which discloses that the edges that extend upward from the reservoir surface have a convex shape). Santini further discloses that the reservoir caps may be made with any shape or size (col. 19, lines 30-33). Santini, however, does not disclose that the convex surface is hemispherical. Richter, however, discloses a similar device (Fig. 7, for example) which has a plurality of blister-like vesicles, and the protruding surfaces of the vesicles have a

hemispherically shaped convex surface (Fig. 7, surface 16). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Microchips with the switches, as taught by Santini, in order to provide selective release of individual components into the body and provide further and finer control of the device. It would have also been obvious to one of ordinary skill in the art at the time of the invention to have modified Microchips' device with reservoir caps that have a hemispherical convex surface, as taught by Richter, as this would be another way to control the disintegration of the reservoir cap and thereby control the release of the material in the reservoir, as a curved surface provides more surface area of fluids/chemicals to contact the reservoir cap and act on it to help release the material in the reservoir. This also would have been an obvious modification as Santini discloses that the reservoir caps can be made in any shape and size, and changing the shape of something is generally recognized as being within the level of ordinary skill in the art.

In reference to claims 2-4 see page 8, line 34 of Microchips and Fig. 2 and col. 15, lines 64 through col. 16, line 6 of Uhland. In reference to claim 4, Uhland discloses using a remote control device to control the device (col. 9, lines 51-67)

In reference to claim 5, page 7, lines 1-5 disclose that the device may be implanted in vivo in gastrointestinal fluids or urine, which would indicate that the device would be placed in either a digestive tract organ or the urinary bladder.

In reference to claim 6, see page 5, line 29 through page 6, line 1 as well as page 6, lines 24-25.

In reference to claims 12-14, see page 3, lines 33-34.

In reference to claims 15 and 16, see page 8, line 15 through page 9, line 5 of Microchips and col. 9, lines 51-67 of Uhland disclose that the device can be controlled by a microprocessor.

Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Microchips, Inc. (WO 02/30401) in view of Santini, Jr. et al. (US Patent No. 6,669,683) and Richter (US Patent No. 6,334,859) and further in view of Yachia et al. (US Patent No. 6,293,923). Microchips discloses the device substantially as claimed including that the device is used in bodily fluids such as urine to treat the bladder (page 7, lines 1-5), Microchips, however, does not disclose an inflatable balloon with magnetic portion and valve. Yachia, however, discloses an inflatable balloon (Fig. 5b, balloon is 1) with magnetic portion (Fig. 13, 3) and a self-sealing valve (Figs. 2, 3a and 3b where valve is 5) for the purpose of delivering a treating device into the bladder so that the device may release drugs to treat the bladder (col. 4, lines 46-48). Yachia further discloses that the device after inflation of the balloon either floats or sinks in the electrolytic fluid (col. 5, lines 64- 65). Yachia further discloses that the applicator is fitted at an end thereof with a gripping device for releasably gripping the device (Fig. 5b, 23). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have coupled Microchips in view of Santini with the delivery device as taught by Yachia, as the device of Microchips is used for treating the urine/bladder and is implanted within that space, and Yachia discloses a device which delivers a treatment device to the

bladder, the device including the balloon and its magnetic and valve elements in order to provide a device which can be delivered to the treatment area and positioned properly to allow for the most effective treatment possible (abstract of Yachia).

Claims 17 and 18-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Microchips, Inc. (WO 02/30401) in view of Santini, Jr. et al. (US Patent No. 6,669,683) and Richter (US Patent No. 6,334,859) and further in view of Yachia et al. (US Patent No. 6,293,923). Microchips discloses the device substantially as claimed including a system for treating a body cavity of an individual, the system comprising: a medical device (Fig. 2) for controlled release of one or more substances (abstract) into a body cavity (page 7, lines 1-5 disclose that the device may be implanted in a patient in a electrically conducting fluid such as urine which would be found in a body cavity) containing an electrolytic fluid (page 6, last line through page 7, line 5 discloses that the device is implanted/inserted into electroconductive/electrolytic fluid of a patient, and one of those bodily fluids is urine) comprising: a power supply having first and second terminals (Fig. 2); a plurality of blister-like vesicles mounted on a first surface (Fig. 2, 62 and 60 are labeled to identify both the electrodes and the caps, therefore as they are shown to protrude from the surface of the microchip device 52 (which as seen in Fig. 2 discloses that 58 lies on top of the surface of the microchip device and cap 60 lies on top of 58 and together, these form a protrusion which can be considered a "blister-like" vesicle), they can be considered "blister-like" vesicles) mounted on a first surface, each

vesicle having at least a metallic portion formed from a first metal (page 5, line 24 through page 6, line 30 discloses that each of the blister-like vesicles are electrodes and both can be made from metal), and each vesicle having a wall surrounding a lumen, which is configured to be filled with the one or more substances that are to be released into the body cavity (Fig. 2 discloses that 56 and 58 are both mounted on a base layer, and that the reservoir 58 along with cap portion 60 can therefore said to be protruding from the base layer, generally labeled as 52. The reservoir 58 is surrounded by 56, and the portion of 56 that surrounds the reservoir can be considered a wall, and the reservoir the lumen. The fourth paragraph of page 7 discloses that the reservoir/lumen is configured to be filled with substances that are to be released into the body. Therefore since Applicant has not claimed that the vesicles are hemispherical protrusions surrounding a cavity containing a substance to be released into the body, it is the examiner's position that Microchips discloses "blister-like vesicles" as claimed); for each vesicle, an individual electrical connection between the metallic portion of the vesicle and the first terminal of the power supply, each connection including allowing the metallic portion to function as an anode (page 7, line 29 through page 8, line 1 disclose that 60 is the anode and 62 is the cathode, and Fig. 2 discloses that there are individual electrical connections to each vesicle, also see page 5, line 24 through page 6, line 30 as well as Fig. 2); and a cathode (62) formed from a second metal attached to the second terminal of the power supply (Fig. 2); wherein the cathode is separated from the anode by a space that is accessible by the electrolytic fluid when the device is in the body cavity (Fig. 2 discloses that there is space between 60 and 62 and that both are

exposed to the electrolytic body fluid as the fluid is labeled as 30, see page 7, line 22). Microchips, however, does not disclose that each reservoir/vesicle is coupled to a switch or that the blister-like vesicles have a convex surface protruding above a first surface. Santini, however, discloses a similar device (Fig. 5) with multiple reservoirs/lumens (Fig. 5, the second row of reservoirs labeled as 180) and each reservoir/vesicle lumen is individually connected electronically (the second row in Fig. 5 discloses that each reservoir is connected electronically independently of the other reservoirs) and further discloses that each reservoir has it's own resistor (140b) which Santini discloses acts as a switch to selectively control which reservoirs release their contained substances into the patient (col. 20, lines 56-59). Santini, however, does not disclose that the convex surface is hemispherical. Richter, however, discloses a similar device (Fig. 7, for example) which has a plurality of blister-like vesicles, and the protruding surfaces of the vesicles have a hemispherically shaped convex surface (Fig. 7, surface 16). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Microchips with the switches, as taught by Santini, in order to provide selective release of individual components into the body and provide further and finer control of the device. Santini, further discloses reservoir caps with a convex surface protruding above a first surface (see Fig. 6c and the marked up version of Fig. 6c at the end of the office action, which discloses that the edges that extend upward from the reservoir surface have a convex shape). Santini further discloses that the reservoir caps may be made with any shape or size (col. 19, lines 30-33). Therefore it would have been obvious to one of ordinary skill in the art at the time

of the invention to have modified Microchips with the switches, as taught by Santini, in order to provide selective release of individual components into the body and provide further and finer control of the device. It would have also been obvious to one of ordinary skill in the art at the time of the invention to have modified Microchips' device with reservoir caps that have a hemispherical convex surface, as taught by Richter, as this would be another way to control the disintegration of the reservoir cap and thereby control the release of the material in the reservoir, as a curved surface provides more surface area of fluids/chemicals to contact the reservoir cap and act on it to help release the material in the reservoir. This also would have been an obvious modification as Santini discloses that the reservoir caps can be made in any shape and size, and changing the shape of something is generally recognized as being within the level of ordinary skill in the art.

Microchips in view of Santini and Richter, however, does not disclose an inflatable balloon with magnetic portion and valve. Yachia, however, discloses an inflatable balloon (Fig. 5b, balloon is 1) with magnetic portion (Fig. 13, 3) and a self-sealing valve (Figs. 2, 3a and 3b where valve is 5) for the purpose of delivering a treating device into the bladder so that the device may release drugs to treat the bladder (col. 4, lines 46-48). Yachia further discloses that the device after inflation of the balloon either floats or sinks in the electrolytic fluid (col. 5, lines 64-65). Yachia further discloses that the applicator is fitted at an end thereof with a gripping device for releasably gripping the device (Fig. 5b, 23). Yachia also discloses an inflating device for inflating the balloon (Fig. 4a, 7). Therefore it would have been obvious to one of ordinary skill in

the art at the time of the invention to have coupled Microchips with the delivery device as taught by Yachia, as the device of Microchips is used for treating the urine/bladder and is implanted within that space, and Yachia discloses a device which delivers a treatment device to the bladder, the device including the balloon and its magnetic and valve elements in order to provide a device which can be delivered to the treatment area and positioned properly to allow for the most effective treatment possible (abstract of Yachia).

In reference to claim 19, Yachia discloses a magnetic displacing member (Fig. 13, 51 and 52) for displacing the device within the body cavity. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Microchips with the magnetic displacing member, as taught by Yachia, in order to allow the physician to position the implanted device correctly to bring about the most effective treatment at the delivery site (col. 4, lines 62-65).

In reference to claims 20 and 21, Yachia discloses an immobilizing member (Fig. 14, 75) comprising a magnetic portion (72), said immobilizing member being secured onto the individual's body for immobilizing the device at a desired location in the body cavity (Fig. 14). Yachia further discloses that the immobilizing member is a hygienic pad configured to be placed in a garment of the individual (col. 7, lines 39-41). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Microchips with the magnetic immobilizing member, as taught by Yachia, in order to allow the physician to position the implanted device correctly to bring about the most effective treatment at the delivery site (col. 5, lines 2- 3).

In reference to claims 22-24, Yachia, however, discloses that the gripping device has flanges (Fig. 5a, 23), is magnetic (Fig. 11, 29) and the inflating device comprises an injector (Figs. 4a and 4b, 7). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Microchips with the magnetic gripping member and inflating member, as taught by Yachia, in order to allow the physician to position the implanted device correctly to bring about the most effective treatment at the delivery site (col. 6, lines 56-61).

Claims 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Microchips, Inc. (WO 02/30401) in view of Santini, Jr. et al. (US Patent No. 6,669,683) and Richter (US Patent No. 6,334,859) and further in view of Yachia et al. (US Patent No. 6,293,923). Microchips discloses the device substantially as claimed including a method for releasing one or more substances into a body cavity containing an electrolytic fluid of an individual, the system comprising: loading the one or more substances into the vesicles of a medical device (Fig. 2) for controlled release of one or more substances (abstract) into a body cavity as well as inserting the device into the body cavity (page 7, lines 1-5 disclose that the device may be implanted in a patient in a electrically conducting fluid such as urine which would be found in a body cavity) containing an electrolytic fluid (page 6, last line through page 7, line 5 discloses that the device is implanted/inserted into electroconductive/electrolytic fluid of a patient, and one of those bodily fluids is urine) comprising: a power supply having first and second

terminals (Fig. 2); a plurality of blister-like vesicles mounted on a first surface (Fig. 2, 62 and 60 are labeled to identify both the electrodes and the caps, therefore as they are shown to protrude from the surface, of the microchip device 52 (which as seen in Fig. 2 discloses that 58 lies on top of the surface of the microchip device and cap 60 lies on top of 58 and together, these form a protrusion which can be considered a "blister-like vesicle) they can be considered "blister-like" vesicles) mounted on a first surface, and each vesicle having a wall surrounding a lumen, which is configured to be filled with the one or more substances that are to be released into the body cavity (Fig. 2 discloses that 56 and 58 are both mounted on a base layer, and that the reservoir 58 along with cap portion 60 can therefore said to be protruding from the base layer, generally labeled as 52. The reservoir 58 is surrounded by 56, and the portion of 56 that surrounds the reservoir can be considered a wall, and the reservoir the lumen. The fourth paragraph of page 7 discloses that the reservoir/lumen is configured to be filled with substances that are to be released into the body. Therefore since Applicant has not claimed that the vesicles are hemispherical protrusions surrounding a cavity containing a substance to be released into the body, it is the examiner's position that Microchips discloses "blister-like vesicles" as claimed), each vesicle having at least a metallic portion formed from a first metal (page 5, line 24 through page 6, line 30 discloses that each of the blister-like vesicles are electrodes and both can be made from metal); for each vesicle, an individual electrical connection between the metallic portion of the vesicle and the first terminal of the power supply, each connection allowing the metallic portion to function as an anode (page 7, line 29 through page 8, line 1 disclose that 60 is the

anode, and 62 is the cathode, Fig. 2 discloses that each reservoir has an individual electrical connection, also see page 5, line 24 through page 6, line 30 as well as Fig. 2); and a cathode (62) formed from a second metal attached to the second terminal of the power supply (Fig. 2); wherein the cathode is separated from the anode by a space that is accessible by the electrolytic fluid when the device is in the body cavity (Fig. 2 discloses that there is space between 60 and 62 and that both are exposed to the electrolytic body fluid as the fluid is labeled as 30, see page 7, line 22). Microchips, however, does not disclose that each vesicle is electrically coupled to a switch or that the blister-like vesicles have a convex surface protruding above a first surface. Santini, however, discloses a similar device (Fig. 5) with multiple reservoirs/lumens (Fig. 5, the second row of reservoirs labeled as 180) and each reservoir/vesicle lumen is individually connected electronically (the second row in Fig. 5 discloses that each reservoir is connected electronically independently of the other reservoirs) and further discloses that each reservoir has its own resistor (140b) which Santini discloses acts as a switch to selectively control which reservoirs release their contained substances into the patient (col. 20, lines 56-59). Santini, further discloses reservoir caps with a convex surface protruding above a first surface (see Fig. 6c and the marked up version of Fig. 6c at the end of the office action, which discloses that the edges that extend upward from the reservoir surface have a convex shape). Santini further discloses that the reservoir caps may be made with any shape or size (col. 19, lines 30-33). Santini, however, does not disclose that the convex surface is hemispherical. Richter, however, discloses a similar device (Fig. 7, for example) which has a plurality of blister-like

vesicles, and the protruding surfaces of the vesicles have a hemispherically shaped convex surface (Fig. 7, surface 16). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Microchips with the switches, as taught by Santini, in order to provide selective release of individual components into the body and provide further and finer control of the device. It would have also been obvious to one of ordinary skill in the art at the time of the invention to have modified Microchips' device with reservoir caps that have a hemispherical convex surface, as taught by Richter, as this would be another way to control the disintegration of the reservoir cap and thereby control the release of the material in the reservoir, as a curved surface provides more surface area of fluids/chemicals to contact the reservoir cap and act on it to help release the material in the reservoir. This also would have been an obvious modification as Santini discloses that the reservoir caps can be made in any shape and size, and changing the shape of something is generally recognized as being within the level of ordinary skill in the art.

Microchips in view of Santini and Richter, however, does not disclose an inflatable balloon with magnetic portion and valve, nor expanding the balloon in the body cavity or displacing the balloon within the urinary bladder to a desired location. Yachia, however, discloses an inflatable balloon (Fig. 5b, balloon is 1) with magnetic portion (Fig. 13, 3) and a self-sealing valve (Figs. 2, 3a and 3b where valve is 5) for the purpose of delivering a treating device into the bladder so that the device may release drugs to treat the bladder (col. 4, lines 46- 48). Yachia further discloses that the device after inflation of the balloon either floats or sinks in the electrolytic fluid (col. 5, lines 64-

65). Yachia further discloses that the applicator is fitted at an end thereof with a gripping device for releasably gripping the device (Fig. 5b, 23). Yachia also discloses an inflating device for inflating the balloon (Fig. 4a, 7). Yachia, however, discloses expanding a balloon in a urinary bladder (Fig. 9) and displacing the balloon within the bladder to a desired location (Fig. 13). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have coupled Microchips with the delivery device as taught by Yachia, as the device of Microchips is used for treating the urine/bladder and is implanted within that space, and Yachia discloses a device which delivers a treatment device to the bladder, the device including the balloon and its magnetic and valve elements in order to provide a device which can be delivered to the treatment area and positioned properly to allow for the most effective treatment possible (abstract of Yachia).

In reference to claim 27 see Figs. 9 and 13 of Yachia.

In reference to claim 28, see page 3, lines 33-34 of Microchips.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Microchips, Inc. (WO 02/30401) in view of Santini, Jr. et al. (US Patent No. 6,669,683) and Richter (US Patent No. 6,334,859) and further in view of Yachia et al. (US Patent No. 6,293,923). Microchips discloses the device substantially as claimed including a method for releasing one or more substances into a body cavity containing an electrolytic fluid of an individual, the system comprising: a power supply having first and

second terminals (Fig. 2); a plurality of blister-like vesicles mounted on a first surface (Fig. 2, 62 and 60 are labeled to identify both the electrodes and the caps, therefore as they are shown to protrude from the surface, of the microchip device 52 (which as seen in Fig. 2 discloses that 58 lies on top of the surface of the microchip device and cap 60 lies on top of 58 and together, these form a protrusion which can be considered a "blister-like" vesicle) they can be considered "blister-like" vesicles) mounted on a first surface, and each vesicle having a wall surrounding a lumen, which is configured to be filled with the one or more substances that are to be released into the body cavity (Fig. 2 discloses that 56 and 58 are both mounted on a base layer, and that the reservoir 58 along with cap portion 60 can therefore said to be protruding from the base layer, generally labeled as 52. The reservoir 58 is surrounded by 56, and the portion of 56 that surrounds the reservoir can be considered a wall, and the reservoir the lumen. The fourth paragraph of page 7 discloses that the reservoir/lumen is configured to be filled with substances that are to be released into the body. Therefore since Applicant has not claimed that the vesicles are hemispherical protrusions surrounding a cavity containing a substance to be released into the body, it is the examiner's position that Microchips discloses "blister-like vesicles" as claimed), wherein an inner surface of the wall is configured to define a portion of the lumen (the lower inner surface of cap 60 borders the top of the lumen and therefore defines a portion of the lumen); for each vesicle, an individual electrical connection between the metallic portion of the vesicle and the first terminal of the power supply, each connection allowing the metallic portion to function as an anode (page 7, line 29 through page 8, line 1 disclose that 60 is the

anode, and 62 is the cathode, Fig. 2 discloses that each reservoir has an individual electrical connection, also see page 5, line 24 through page 6, line 30 as well as Fig. 2); and a cathode (62) formed from a second metal attached to the second terminal of the power supply (Fig. 2); wherein the cathode is separated from the anode by a space that is accessible by the electrolytic fluid when the device is in the body cavity (Fig. 2 discloses that there is space between 60 and 62 and that both are exposed to the electrolytic body fluid as the fluid is labeled as 30, see page 7, line 22). Microchips, however, does not disclose that each vesicle is electrically coupled to a switch or that the blister-like vesicles have a convex surface protruding above a first surface. Santini, however, discloses a similar device (Fig. 5) with multiple reservoirs/lumens (Fig. 5, the second row of reservoirs labeled as 180) and each reservoir/vesicle lumen is individually connected electronically (the second row in Fig. 5 discloses that each reservoir is connected electronically independently of the other reservoirs) and further discloses that each reservoir has its own resistor (140b) which Santini discloses acts as a switch to selectively control which reservoirs release their contained substances into the patient (col. 20, lines 56-59). Santini, further discloses reservoir caps with a convex surface protruding above a first surface (see Fig. 6c and the marked up version of Fig. 6c at the end of the office action, which discloses that the edges that extend upward from the reservoir surface have a convex shape). Santini further discloses that the reservoir caps may be made with any shape or size (col. 19, lines 30-33). Santini, however, does not disclose that the convex surface is hemispherical. Richter, however, discloses a similar device (Fig. 7, for example) which has a plurality of blister-like

vesicles, and the protruding surfaces of the vesicles have a hemispherically shaped convex surface (Fig. 7, surface 16). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Microchips with the switches, as taught by Santini, in order to provide selective release of individual components into the body and provide further and finer control of the device. It would have also been obvious to one of ordinary skill in the art at the time of the invention to have modified Microchips' device with reservoir caps that have a hemispherical convex surface, as taught by Richter, as this would be another way to control the disintegration of the reservoir cap and thereby control the release of the material in the reservoir, as a curved surface provides more surface area of fluids/chemicals to contact the reservoir cap and act on it to help release the material in the reservoir. This also would have been an obvious modification as Santini discloses that the reservoir caps can be made in any shape and size, and changing the shape of something is generally recognized as being within the level of ordinary skill in the art.

Response to Arguments

Applicant's arguments, see pages 1-5 of Applicant's arguments, filed 6/23/2010, with respect to the rejection(s) of claim(s) 1-29 under Microchips and Santini have been fully considered and are persuasive. However, upon further consideration, a new ground(s) of rejection is made in view of Microchips in view of Santini and Richter. It is the examiner's position that Microchips and Santini disclose the device as claimed except for the shape of the vesicle's surface being hemispherical. Richter, however,

teaches this shape, and changing a shape is generally considered to be within the level of ordinary skill in the art. Therefore it is the examiner's position that the combination of Microchips, Santini and Richter is an obvious combination.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **LAURA C. SCHELL** whose telephone number is (571)272-7881. The examiner can normally be reached on Monday-Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura C Schell/
Examiner, Art Unit 3767
/KEVIN C. SIRMONS/
Supervisory Patent Examiner, Art Unit 3767